

Franchise Tax Board**ANALYSIS OF ORIGINAL BILL**Author: Sharon RunnerAnalyst: Deborah BarrettBill Number: AB 1020Related Bills: See Legislative HistoryTelephone: 845-4301Introduced Date: February 22, 2007

Attorney: _____

Sponsor: _____

SUBJECT: Recordation of Digital Instruments/County Records**SUMMARY**

This bill would permit a county recorder to accept both digital and digitized documents for recording

In addition, this bill makes changes to provisions relating to the transfer of ownership interests in real property that do not impact Franchise Tax Board (FTB) and are not discussed in this analysis.

PURPOSE OF THE BILL

According to the author's staff, the purpose of this bill is to affirm the continued use by public agencies of digitized documents.

EFFECTIVE/OPERATIVE DATE

This bill would be effective on January 1, 2008, and be operative as of that date.

POSITION

Pending.

ANALYSIS**STATE LAW**

Under current state law, whenever a person fails to pay any liability for taxes at the time the debt becomes due and payable, the unpaid amount is a perfected and enforceable state tax lien. A state tax lien attaches to all property and rights to property, including all after acquired property, belonging to the person and located in California. Under the concept of "first in time, first in right," liens competing for an interest in the same parcel of real property, the lien recorded first in time takes priority over later recorded liens.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
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<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department Director

Date

Selvi Stanislaus

4/16/07

The Uniform Federal Lien Registration Act within the Civil Code establishes procedures for the filing of federal tax liens in county recorder offices located in California. Current state law authorizes the transmission, filing, recording, and indexing of notices of state tax liens recorded by electronic or magnetic means using computerized data processing, telecommunications, or other similar information technologies.

FTB is authorized to submit digitized electronic records to a county recorder's office for filing a Notice of State Tax Lien, Extension of State Tax Lien, or Release of State Tax Lien documents. *Digitized* electronic records are defined as a scanned image of an original paper document. *Digital* electronic records are defined as a record containing information that is created, generated, sent, communicated, received, or stored by electronic means, but not created in original paper form.

A county recorder is authorized to establish an electronic recording delivery system at each county recorder's office for the electronic recording of documents by private entities. Current state law requires the Attorney General's office to oversee and establish regulations to ensure sufficient security exists to prevent fraudulent filing of documents through the electronic process.

THIS BILL

This bill would authorize the recorder of any county to accept for recording, in lieu of paper, digitized images or digital images or both of a recordable instrument, paper, or notice under the following conditions:

- The image conforms to all other applicable statutes that prescribe the criteria for recordability, and
- The requester and addressee for delivery of the recorded images are the same and can be readily identified as a local or state government entity or an agency, branch, or instrumentality of the federal government.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs or operations because it would codify existing practices.

LEGISLATIVE HISTORY

AB 2517 (Runner, Stats 2006, Ch. 423) authorized the transmission, filing, recording, and indexing of notices of state tax liens recorded or filed by electronic or magnetic means. This act also permits a facsimile signature to be accepted on any document relating to a state tax lien filed or recorded.

AB 578 (Leno Stats 2004, Ch. 621) expanded the authorization for electronic recording of documents at a county recorder's office to include instruments of reconveyance, substation of trustee, or assignment of deed of trust.

AB 1906 (Brewer, Stats 1997, Ch. 463) authorized the transmission, filing, recording, and indexing of notices of Federal tax liens by electronic or magnetic means.

AB 3296 (Brewer, Stats 1996, CH 842) initiated a pilot with San Bernardino and Orange Counties to accept digitized images of recordable instruments.

OTHER STATES' INFORMATION

Laws from the states of *Illinois*, *Florida*, *New York*, *Minnesota*, and *Michigan* were reviewed due to their similarities to California's economy, business entity types, and tax laws. *Illinois*, *Florida*, *New York*, and *Michigan* do not specify whether recordation of a notice of state tax lien is done manually or electronically. These states all ultimately file their notices in the offices of the county recorder where real property is located.

Minnesota was the only state that specified an electronic method for filing a notice of state tax lien. *Minnesota* requires the liens to be filed electronically with the Secretary of State Central Lien Registry, who then forwards the lien to the applicable county in which property is located.

FISCAL IMPACT

Implementing this bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Implementing this bill would not significantly impact the state's income tax revenues.

ARGUMENTS/POLICY CONCERNS

This bill is consistent with the department's efforts to maximize the use of technology to provide cost effective and efficient services.

LEGISLATIVE STAFF CONTACT

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